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Chambers of Vincent L. Briccetti

2/23/23 DH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 YAKOV SHMUEL TOISIG, et al., :
 Plaintiffs, :
 :
 v. :
 :
 CHRISTINA BENSON, et al., :
 Defendants. :
 -----x

ORDER

22 CV 10309 (VB)

2/23/23

On December 6, 2022, plaintiffs, proceeding pro se, commenced this action against defendants Christina Benson, Danielle Jose-Decker, Anna Kosovych (the “State Defendants”), and several other defendants.

On January 27, 2023, the State Defendants moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). (Doc. #9). The Court thereafter extended plaintiffs’ time to oppose the motion to February 21, 2023.

By letter dated February 21, 2023, plaintiffs (i) request a further extension of time to oppose the motion to March 31, 2023, (ii) state they intend to seek to amend the complaint to “add or clarify facts” and add or remove defendants, and (iii) request an extension until May 6, 2023, to serve all defendants. (Doc. #14).

Accordingly, it is HEREBY ORDERED:

1. The Court construes plaintiffs’ letter as a motion for leave to file an amended complaint pursuant to Fed. R. Civ. P. 15(a). That motion is GRANTED.
2. By **March 31, 2023**, plaintiffs shall file their amended complaint.
3. The amended complaint will completely replace, not merely supplement, the existing complaint, and therefore must include all factual allegations regarding all named defendants. Plaintiffs must include in the amended complaint all information necessary for their claims against all defendants. The amended complaint shall also endeavor to address any deficiencies made apparent by the fully briefed arguments in the State Defendants’ motion to dismiss.
4. Because plaintiffs will be filing an amended complaint, they shall not file an opposition or other response to the pending motion to dismiss.
5. In the interest of efficient case management, the State Defendants’ motion to dismiss is DENIED WITHOUT PREJUDICE.

6. All defendants' deadlines to answer, move or otherwise respond to the complaint or the amended complaint are stayed pending further Court order.

7. Pursuant to Fed. R. Civ. P. 4(m), plaintiffs' time to serve all defendants (either named or to be named) is extended to **May 6, 2023**. If plaintiffs need additional time to serve, they shall make an appropriate application pursuant to Rule 4(m).

8. The Court will mail to plaintiffs a copy of the Court's Motions Guide for pro se litigants, with which plaintiffs will be expected to comply.

The Clerk is instructed to terminate the motion. (Doc. #9).

Chambers will mail a copy of this Order to plaintiffs at the address on the docket.

Dated: February 23, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge